

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9263 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHANTABEN KANTIBHAI VASAVA AND ANOTHER

Versus

STATE OF GUJARAT AND OTHERS

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Appearance :

MR MANOJ SHRIMALI for GIRISH PATEL ASSOC for Petitioners.

MR LB DABHI, AGP for Respondent Nos.1 - 2.

RULE SERVED for Respondent Nos.1 - 5.

HL PATEL ADVOCATES for Respondent No.6.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/04/2007

ORAL JUDGMENT

1) The petitioners herein challenge an order dated 22nd June, 2001 passed by the Collector, Narmada. By the impugned order, the Collector was pleased to allot land admeasuring 2 hectares, 0 Are, 200 sq.mtrs.,

out of block No.134 of village-Nighant, Taluka-Dediapada in favour of respondent no.6 herein for the purpose of starting Ashram Shala thereon.

2) The petitioners contend that the decision is opposed by the Village Panchayat unanimously and that there is already sufficient facility for primary education in the village and around.

3) On the other hand, respondent no.6 through learned advocate contended before the Court that earlier in the year 1999, the Village Panchayat had resolved that the land may be allotted for the said purpose and it is now not open to raise such an objection at a belated stage.

4) Having heard the learned advocates appearing for the parties and in particular, learned AGP, Shri L.B.Dabhi for the State authorities, I find that before allotting land to respondent no.6, the Collector does not appear to have undertaken any exercise for verifying the availability of sufficient 'gauchar' land with the Village Panchayat bearing in mind the cattle population in the village. The petitioners have stated in the petition that in the village there are approximately 700 cattle and available 'gauchar' land is only about 40 acres. It is not in dispute that there are Government circulars providing that preferably a certain minimum area of land be preserved for 'gauchar' land on the basis of cattle population in a village. Considering the pattern of agriculture in our state, considerable stress is to be on preservation of milk cattle, particularly the progeny of cows. Even Government circulars, which cannot be disputed, provide for preserving 'gauchar' land as far as possible.

5) Under the circumstances, total non-consideration of the area available for 'gauchar' land having regard to the cattle population in the village, before granting land to respondent no.6, cannot be approved.

6) Under the circumstances, the entire issue is remanded to Collector for fresh consideration and decision bearing in mind the observations made herein above. For the above purpose, impugned order is quashed. The Collector shall take up fresh decision expeditiously after giving an opportunity of being heard to respondent no.6 as well as to Village Panchayat.

7) With these directions, the petition is disposed of. Rule is made absolute to the above extent. No costs.

(Akil Kureshi, J.)

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